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DEBATES ON THE DECLARA-
TORY ACT AND THE REPEAL
OF THE STAMP ACT, 1766

Contributed by
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DOCUMENTS

Debates on the Declaratory Act and the Repeal of the Stamp Act, 1766

THE following reports of debates are printed partly because of their intrinsic importance and interest, and partly as a means of drawing attention to an endeavor in which the Department of Historical Research in the Carnegie Institution of Washington is at present actively engaged. As has been made known to some readers by the annual reports of that department, it has for some time been making preliminary preparations toward a compilation to be entitled *American Proceedings and Debates in Parliament*. This will include, on the one hand, the items relating to North American affairs prior to 1783 contained in the *Journals* of the Lords and Commons of Great Britain, the Scottish Parliament, and the Lords and Commons of Ireland; and on the other hand, the best texts of the various debates on American subjects which can be obtained by careful editing of all existing original materials, printed or manuscript. Besides such manuscripts in the Public Record Office and the British Museum as, by the kindness of Professor Charles H. Hull of Cornell University and Mr. Harold W. V. Temperley, of Peterhouse, Cambridge, are presented in the following pages, the managing editor of this journal is warmly desirous to learn of all manuscript debates in less conspicuous public repositories or in private hands, which contain any matter bearing upon the history of America before 1783. Information regarding such manuscripts will be cordially welcomed.

Apart from materials preserved in England, it may be useful to mention the probability that others, not known to the editor, may be existent in America. Thus, it has lately been discovered by him that a manuscript volume in the library of the Massachusetts Historical Society, which had hitherto escaped careful examination, contains a most valuable record of proceedings and debates of the House of Commons in 1628-1629, while another contains a similar report for 1673-1674 and for 1678-1679, which can be proved to have been written by Sir Edward Dering, member successively for East Retford and Hythe. This record contains notes of proceedings during a dozen days which are omitted from the printed journal. In the Library of Congress, again, there is, in the Division of Manuscripts, a set of 45 volumes of Irish parliamentary debates in short-

band with 37 volumes of transcripts, constituting apparently much the most important record of debate in the Irish House of Commons from 1770 to 1780, aside from those in the printed *Parliamentary Register*.¹ Also, there are of course many transcripts made by George Bancroft from manuscript reports in England, preserved in the New York Public Library.

Of the reports herewith presented both relate to the same episode in American history, but the first is a record of a debate in the Commons on the Declaratory Act, while the second records a debate in the Lords on the repeal of the Stamp Act. The first, obtained by Professor Hull from the Public Record Office, Treasury Papers, year 1700, bundle 372, is in the handwriting of Grey Cooper, who in the preceding July had become a secretary of the Treasury and in January, 1700, had, as a new member, taken his seat for the city of Rochester. The provenance and character of the second are sufficiently indicated in Mr. Temperley's introduction. It should perhaps be stated that, as the text has come to us in a form marked by extreme abbreviation, the editor of this journal has thought fit, almost as if he were dealing with shorthand, to make the record easily intelligible by expanding abbreviations. Grey Cooper's manuscript requires no such treatment.

By way of explanation of both pieces, it may be useful to remind the reader that Parliament reassembled January 14 and that on that day Secretary Conway presented to the House various letters, petitions, and other papers relating to the disturbances in America caused by the passage of the Stamp Act.² These papers, with others of a similar character presented on the 22d, the 27th, and the 28th of January, were referred to the Committee of the Whole House and on January 28 were taken up by that committee, which sat from eight to ten hours on almost every day from that time until February 21, when the seven resolutions which constituted its report were completed.³ On February 3 began the debate in committee on the first of these resolutions, introduced by Conway.⁴ This debate,

¹ See the note on these volumes by Professor Marcus W. Jernegan in the *English Historical Review*, XXIV, 134-106.

² *Journal of the House of Commons*, XXX, 447-451.

³ *Ibid.*, p. 602.

⁴ "That the King's Majesty, by and with the consent of the Lords spiritual and temporal, and Commons of Great Britain in parliament assembled, had, hath, and ought to have, full power and authority to make laws and statutes of sufficient force and validity to bind the colonies and people of America subjects of the crown of Great Britain in all cases whatsoever." The first three resolutions are copied by Grey Cooper in substance at the beginning of his report, but are omitted below.

which is the one here presented, continued until nearly four in the morning, when the resolution passed with but few opposing voices. This resolution, when taken up by the House itself, February 24, was also the subject of some discussion, since, upon its second reading, a motion was made for its postponement, but after a debate the motion was lost and the resolution was adopted. On February 26 the bill for the Declaratory Act was brought in, and, without further debate, it was passed on March 4.

No report of the debate here presented is to be found in the *Parliamentary History of England*,⁵ but a brief summary of it is given by Bancroft, drawn, as he states, from the report made by Charles Garth⁶ to South Carolina, February 9, 1766.⁷ A much fuller account of the proceedings of the committee is to be found in a report addressed by Garth on March 5 to the three delegates to the Stamp Act Congress from Maryland; this report has lately been published in the *Maryland Historical Magazine*.⁸

The Declaratory Act and the act for the repeal of the Stamp Act were received by the Lords on the same day, March 5. The discussion of the disturbances in America had been going on in that house since February 10. The Declaratory Act reached its second reading in the Lords on March 7 and passed on March 13. On March 11 the bill for the repeal of the Stamp Act was read for the second time and the debate presented on a later page by Mr. Temperley followed a motion to commit it.

I.

Genl Conway moved that

I glory that I have not advised the sending a force there.

The Americans irritated by repeated Blows in their Trade and Property. New Modes of Taxation always irritate. Lumber, Melasses, Swarms of Cutters, exhausted by the War, in debt. We had just paid their Debt and then called upon them to contribute to ours. I think an internal Tax false in its principle and dangerous in its consequences.

*Mr Dowdeswell*⁹ seconds it.

Mr Stanley,¹⁰ I wish to see the whole Extent of what I am doing wr.¹¹ this Motion be only to give a specious Appearance to the Neglect

⁵ The account of the passage of the Declaratory Act, given in Almon's *Debates and Proceedings* (1772) and in Debrett's *History, Debates, and Proceedings* (1792), is identical with that in Cobbett.

⁶ Charles Garth, member for Devizes, was agent for the colonies of South Carolina and Maryland.

⁷ Bancroft, *History of the United States* (Boston, 1858), V. 415.

⁸ *Id. Hist. Mag.*, VI. 291-302.

⁹ William Dowdeswell, chancellor of the exchequer, M.P. for Worcestershire.

¹⁰ Hans Stanley, commissioner of the Admiralty, M.P. for Southampton.

¹¹ Whether.

of exercising the Right on the first Step towards the enforcing of it. In support of my former opinion some have reasoned as if the first Planters had recovered their State of Nature. This Doctrine mischievous to the Colonies. No British Subject can renounce his Allegiance with respect to Representations we are not Nobles, not feudal Tenants, not confined to a Profession but open to all Professions. The Commercial and landed Interest concerned in the Welfare of America: We have shown them always Attention, Copy¹ nor Manum² not represented no more than the American. No hardship upon either. Every Man his Life and Liberty if he has not Property, if you rescind the Boroughs you make an Oligarchy, if you throw them into the counties you will have no quiet Election, So candidates in Cornwall. Mr St John in his argu on Ship Money argues that the power of laying Taxes and Laws are always in the same Legislature. If we have a separate Power as Representatives why not tax all but the Peers by ordinance. This a novel Doctrine! It was always talk'd of during the War. Mr Legge³ pointed out a Tax as a Vidam of Comfort under our distress to support their army, recd with full approbation. My Principle is that my Country is sinking under a Burthen which she cant bear without assistance. If this be only a specious Preliminary we only deceive ourselves and shall in effect divide America. I am persuaded that enacting Laws and laying taxes so entirely go togeth that if we surrender the one we lose the others. The Americans have not made the futile Distinction between internal and external taxes. It would be arbitrary to raise the one if we ought not to raise the other. Masss Bay Resus, on Octr 1764, enact[ing] that the Courts shall proceed as if the Act had never passed, is an Act of independant Legislature. They have exceeded what this House has ever done Meeting in a federal Union not to be dissolved by the Crown. They will soon become more useful Allies to France than to you as appears from the papers. Respect may continue but Obedience ceases, if the House shd do so frivolous an Act as to vote the Right and repeal the Act: The Repeal will not remedy the Disorders: They will argue Repn. further on your own Admissions. All their Petitions are Insults on your authority. No Resemblance to this and disputing your Juris[dictio]n. They have put the Mother Country under an Interdict and forbid Imports from hence.

Mr. Yorke⁴. I consider this as the Way of Proceeding most consistent with your Dignity, separating the Q of Right from that of Expediency. I shall be ready to repeal if I see Impracticability and will make free with my former Vote upon further Lights. The Roman Senate said *inconsulto statimque consultis revocamus*. I wd. repeal not wantonly because it is asked, not timidly because it is resisted, but on being convinced of the Inexpediency, but I am clear on the Right. The sovereign Legislature must be supream. The Privileges of Lithuania and the Subdivisions of Holland are destructive of each country but we are govern'd by one Plan of uniform Authority. The Colonists carried with them the Laws of their Mother Country. They wanted Protection and owed Allegiance, they carried with them their

¹ Copy of them.

² Henry Balsen Legge, who served in the exchequer during most of the Seven Years' War.

³ Charles Legge, Attorney General, M.P. for Reigate.

personal Rights but they wanted the powers of Justice and of Mercy till given by the Crown. The Legislative Power of Parlt extends as far as the Power of the Crown: you have limited the Succession of the Crown, established martial Law, given Modes of Trial, and have communicated the Jura Civitatis to foreigners (whch the Crown cannot do) in all parts of the Kings Dominions. Ireland had been lost in the civil Wars and at the Revolution but for the Supremacy of the Legislature. At the Revolution, you gave the Crown of Ireland, you abrogated oaths, establish'd new ones, absolv'd by 3 and 4 W. 3. from Penalties encur'd by Irish Acts for Debts to the Crown, you sold the forfeited Estates to be paid into the Exchr in Engld by 10 W. 3. established an Army to be provided for annually there, if they exceeded their Number you would say it was contrary to Law. The Proceedings agst. Mr. Moleneux¹⁵ in this house, apptd a Comte to examine the Book, voted them pernicious and addressed the King to enquire after the Author. These all since the Revolution. James I. was anxious that Ireland shd hold only of the Crown and advised in vain with Mr. Selden upon it. 1 Ph. and M. The Parlt represent the whole Body of the Realm and all the Dominions of the same. The Colonies not like those from the North that great Seminary of Nations. they come out to seek Establishts without any Reference to the State they left, nor like those of Greece. they only carried with them only Respect and often turned agst. the Mother Countries as she rose and fell; but yours are more like of Rome going out under a decree of the Senate non suis radicibus petuntur sed a civitate quasi propagati sunt jura et.^{16a}

The great Virginia Charter comprehends the whole, they are licensed to deduce a Colony. The others are derived out of it. No distinction between the several Sorts of Charter; the Tenures are not from the Crown but from the Soil within the Realm. The Legisl Power given to the Colonies is to be exercised after the manner of corpus in England. The Law can grant no other. He cannot grant away any part of the Supream Legislative. are the Privileges of Pensylvania less than those of the Colonies? The Exempt[ion] there expressed is implied in all the rest.¹⁷ New York 1713. Bill to raise a Revenue was prepared by Sr. E. Northey and Sr. R. Raymond. In 1716¹⁷ on the Disorders in Carolina Lord Stanhope prepared a Bill for resuming the Judicial Powers in the Charter Govts and was twice read. In 1625 the first Virginia Charter vacated and on petition of the Agents they desired Exemption from Impositions except by Assembly and were answered that they shd not unless by the King in Parliament, i. e. not to the King

¹⁵ William Molyneux, author of *The Case of Ireland being bound by Acts of Parliament in England stated* (1698), condemned by the English House of Commons. *Journals of the House of Commons*, XII, 331.

^{16a} Qu. ? non suis radicibus ponuntur sed a civitate quasi propagatae sunt jure et institutis patriae.

¹⁶ The clause in the Pennsylvania charter of 1681 reads as follows: "That Wee, our heires and Successors, shall at no time hereafter sett or make, or cause to be sett, any imposition, custome or other taxation, rate or contribution whatsoever, in and upon the . . . inhabitants of the aforesaid Province . . . unless the same be with the consent of the Proprietary, or chiefe governor, or assembly, or by act of Parliament in England".

¹⁷ 1713. See Miss L. P. Kellogg in the American Historical Association's *Annual Report*, 1903, I, 309-310.

without Parlt. In the case of the Massachusetts their first Charter gave no power of taxation, in 1684 vacated, held to be legal; applied to have it reversed; the St. G. Treby before Lord Somers Holt and Pollexfen told them that if they took their old Charter and imposed Taxes and call'd an assembly their Charter might again be repeal'd. This proves that all those powers are derived from the Crown. Want of Repres. is Consist. of Equity of Right. Preamble to the Act of Durham. The old Subsidy Acts have express Words to bind all the King's Dominions. The Exceptions are not want of Representm for some actually represented as Wales, the Northern Counties. Exemptions of Individuals then usual tho' not always allowed. The Subsidies were then considered as Crown Revenue; the Appropriation Clause was introduced since the Revolution. Why are Copyhds excluded on a speculative Distinction? Why lay any tax in the Colonies? In 1672 on the Conference on an Impost Bill,² Tonnage and Poundage are considered the same as Impus³ on Land tho' then material the Lands not being concerned in Merchandize. In 1755 Complaint of the Neglect of Pennsylvania to the Council as a Breach of Trust. The Language of the Resolutions is subversive of all legislative Authority. In Politics as in Religion an Offence agst one part is an Offence agst the whole. Unless you assert your legislative Authority no friend will trust you no Enemy will fear you.

*Mr. Beckford:*⁴ L. Coke says in Dr. Bonnom's Case 118 that the common Law in many cases controuls Acts of Parlt.⁵ The Cases of New York and Carolina were both on their refusal to provide for Necessary Services. The Case of Jamaica was the Parlt or the Assembly and if the Assemblies will not the great controuling Power shall. Ireland is a conquered Country, Pennsylvania a Grant to a private Man. The dernier Resort of the colonists is to the K. in Council. I positively deny the Right. Are the Colonies to be taxed by their own assemblies and Parlt.

*Mr. Nugent:*⁶ I am sorry that the American who has carried the Privileges has left behind him the obligations of Britons; he is not entitled to one without the other; if he is not obliged to pay obedience where ever he goes he is an alien; he is indeed conquered. Your Resolution ought not to be so generally, Specific words shd point out the specific cause of Resistance.

Genl. Conway. I have no doubt on the Right because I cannot distinguish between internal and external cases but I doubt of the Justice, Equity and Expediency. The Americans have denied the whole and I say that we have a right to bind them in all.

*Mr. Blackstone:*⁷ I approve of the Proposition because it is conceived in the most general and universal Words that can possibly be imagined. As to the Oblt. of Representations if we taxed only in our representative capacity the Commons wd have the sole right of taxing for we are the only Representatives, but the other Parts of the Leg must consent or our Vote has no Effect. Magna Charta and the Stat.

² See *Parlt. Hist.* IV. 48-49.

³ Imposts.

⁴ Ableman Wilton Beckford, M.P. for the City of London.

⁵ See *Coke's Reg. etc.* 118. also 1 Dr. Bonham.

⁶ Robert Nugent, M.P. for Bristol.

⁷ Sir William Blackstone, author of the *Commentaries*, M.P. for Hindon.

of E. 1. and E. 3. refered to in the Pet. of Right say that Taxes are to be laid per commune consilium. No Tallage shall be imposed without Consent of Nobles, Knights, Burgesses and other Freemen of the Realm. Pet of Right without common Consent by Act of Parlt. The Commons have the sole Right of proposing and regulating the Mode because perhaps this is a temporary Body and, not so influenced by the Crown. In the Conferences 1671 the Managers directed not to enter into the Question and compare it to the Judicature of the Lords.²⁴ They did not insist upon their Representative Capacity. It is the Representative of the Nation and not of Individuals. The Counties Palatine bound a large Body of Freehds a 16th part of the whole—the Towns of Birmingham and Manchester; if we were now to form a new Constitution Reasons might be given for admitting Leasehds. and I had rather have our old Constitution. It is a Contradn to say that the inferior must send Repres. to the superior: it then becomes a part of that superior and is both Subject and Sovereign. The Colonies are not part of the Realm but of the Dominions not bound unless named because they have Legislatures of their own. Sovereignty and Legislature go always together. They may dispute one Law as well as another. All the Dominions of G. B. are bound by Acts of Parlt—Calais, Guienne, Jersey, Guernsey, Ireland—and never contended that they must be represented. Calais only represented. H. 8 capriciously gave them Representatives but he gave none to others. Calais bound by Subsidy Acts before that time. In the Usurpation the House of Commons never pretended that all must be represented but declared that all in Ireland and Jersey shd be bound by the Representatives of this Kingdom tho' they declared that all right of Govt belonged to those Representatives. This was in 1648. In 1650 on passing the Act of Navigation declared all American Colonies subject to England. Preamble to the same. In the Subsidy Acts Calais, Guernsey, Jersey, Guienne, are excepted as *necessarily* from all the King's *Dominions*. In 1621 and 1623 free fishery declared (Journals) objd that it ought not to make Laws for Virginia because it encroached the K. Prerogative pass'd and resolved 17th March 1763. 5. G. 2. c. 7. Paper Currency. Q. Ann's Act for cutting down trees. All Penalties are Taxations, the Stamp Act is but a penal Law as almost all Revenue Laws are. The Law for quartering Soldiers is a Tax. Post Office Act voted by the Comee of Ways and Means and is an internal Taxation.

*Mr. T. Pitt.*²⁵ The first Settlers owed obedience. at what distance did it cease. but better deny the Right than assert it and say that in fact we have it not whatever we say or that we dare not. does the Expediency arise from their Resistance.

*Mr. Hussey.*²⁶ The Colonies are annex'd unalienably to the Crown. The Sovereign power has a right to permit the Departure of the Subjects on whatever Conditions it pleases and if they make no Conditions he carries with him the common Law. To that he owes Obedience and receives Protection. The common Law says he shall be bound by an Act of Parlt. The Fact was K. J. 1. assumed all Sovereign Power. The Lawyers then thought he might give them what Laws he pleased. It was said so in this house by the Secy of State. The Charters gave powers a King of Engd cannot. Hence arises the obscurity about the

²⁴ *Parl. Hist.*, IV. 480-495.

²⁵ Thomas Pitt, M.P. for Old Sarum.

²⁶ Richard Hussey, M.P. for St. Mawes.

Constitution of the Colonies — the mistake was that no part can delegate its Supremacy without Consent of the other. It might have been done by Act of Parlt. and My Nation or Representatives. All Govt. began by Compact By Agreement. Freehds. and Burgesses shall chuse and be chosen and the Parlt. represents the whole people. This allowed in all but Taxation they represent territorially. It is so that the Commons alone can give and therefore not the Money of the Americans. The Relation of the Subject cannot be considered as territorial, he can't get rid of his Allegiance by Change of Territory. That fact as clear in Taxation as in every other Case. No distinction by the common Law. Consent says the Constitution is as necessary to every Law. All the Judges have always avowed that any of the King's Dominions are bound if named. Exceptions before mentioned from the Subsidy Acts prove it. I cannot distinguish internal Taxes, if the St. Act is illegal so is the Act of Navign. It wd. be impossible for a Lawyer to distinguish internal from external. Obedience wd. be uncertain. But it is *summum Jus* and *summa Injuria*. The Colonies went out on the faith of the King's Charters. They have been in many Instances recognized by the Legislature. It never acquiesced in the Privileges of Trade, the Act of Navigation immediately followed the Charter. Never the Taxation carried so far as by the St. Act. The Post Office for Convenience at first, not thought of a[s] Revenue till Q. Ann's Time. It never produced a Revenue till lately. The K. by assenting to the St. Act has overturned as a limited Monarch the Privileges granted by his Predecessors as an absolute Monarch. Their Abilities shd. have been known, their comparative Wealth, what we got by their Trade, how much it was taxed; we then should have made a Requisition and to say pay or we will tax you. The Parlt. I believe never taxed Countries who had Legislatures of their own, you have therefore not imitated the wisdom of your predecessors.

*Mr Wedderburn.*²⁷ It is wisely said in your Journals that it can never tend to any profitable purpose to canvass fundamental Principles. The Seditions in America do not relate to the St. Act only. The Sixty of this Nation resides in K. Lords and Commons who represent the whole State of the Kingdom and must be Sovereign in taxes as well as others, by the same right as you affect the Lives and Liberties you affect the Properties of the Subjects. None of your legislative Acts are founded on Repres. The first Settlers in New E. they excluded above 2/3 of their Numbers. 4 R. 2. These Principles condemn'd. In 1649 after destroying the House of Lords. In 1681 the Decree of the University of Oxford. These Principles now urged by the Americans to support the Democracy by those here to extend Prerogative. I think it absurd to declare the Right and avow that it is ever improper to exercise it (Resolution of Mass. Bay). The Colonies never disputed the Right of internal Taxes. Under Virg. Charter the K. by Prer. taxed them to favour the Tobacco of Spain. The Council in Engd. made the first Laws for Virginia, Deputies of the Crown, and the first Laws made by the Colonists was approved by the Council. In the time of C. 1. Secy. Calvert obtained Maryl. Char. King's Power of Taxation. In C. 2. Pennsylvania Chart., the K's Right of Taxing taken away and therefore the Power of Parlt. reserved. When did the Pensylvns ac-

²⁷ Alexander Wedderburne, afterward Lord Loughborough M.P. for Ayr Burghs,

quire Exemption. In 1683 the D of York and his Governors imposed taxes in New York. In Reign of C. 1. the 4¹/₂ p Cent imposed all by Prer. They never therefore disputed the Right of this Country in Taxation first by Prer., now by Parlt. There has been no Acquiescence on our part.

*Mr. Serjeant Huct.*²⁸

*Mr. Burke.*²⁹ Some of Charters declare the Right, others suppose it, none deny it. The Courts to wch they apply determine agst them. There is a real Distinction in every Country between the speculative and practical Constitution of that Country, arising from the Circumstance proper for receiving the first Principles of its Constitution. The King's Negative. The Right of the Clergy in Convocation to tax themselves. Let them evaporate do not expunge them. The British Empire must be governed on a Plan of Freedom for it will be governed by no other. They were meer Corporations, Fishermen and Furriers, they are now commonwealths. Give them an Interest in his Allegiance, give them some Resemblance of the British Constitution, some idea of popular Representation. Draw the Line where you please between perfect and no Repres., but draw the Line somewhere between the two Extrems and I shall vote for this Motion because I know not how to fix Bounds to the coercive Powers of the British Legislature.

*L. F. Campbell.*³⁰ I think nothing more dangerous than the Distinction between theoretical and practical Laws. the Ex[ecut]ion of dormant penal Laws was one of the principal Complaints agst J. 1. The Mode of Requisition is the Remnant of old Prerogative.

*Coll Barré.*³¹ I shall move to leave out the words in all Cases whatsoever. The Legislature of this like that of every other Country is supream. It cannot be controuled: but it ought to controul itself and in that sense you have no right to lay an internal Tax on N. A. The Essence of an assembly is the power of granting Money, if you encroach upon that you deprive them of the very Essence of Liberty. All the forms of Law were kept up in the Time of C. 1. but there was no Parlt and you were Slaves. In Gibraltar and Minorca oppression is often exercised. Representatives from thence absurd: To have the Representatives of 3 meet here the Repres. of 7 Millions. If you do not mean to enforce the Law leave out the Words for they destroy Confidence. They will expect another St. Act. If you draw the Sword the Colonies are no longer yours. Suppose you subject them, you destroy your Commerce: France has not insisted upon Submission from her own provinces who have Estates in the heart of France:

Mr. Dowdeswell. If the Words were left out the Resolution wd be too much confined. I do not know the Oblign Men are under to one Species of Laws and not to another. If I did not think him bound by all Laws I wd leave out the whole Resolution and to repeal many Acts of Parlt. I do not see the Necessity of Consent to Taxations and not to Acts affecting my Life and attainting my Blood. When you declared customary Freehds had no Votes did you mean that they were not represented or bound? The Colonists depopulated this Country by peopling their own: if they are not Subordinate they are a Loss. In

²⁸ Sergeant James Hewett, M.P. for Coventry.

²⁹ Edmund Burke, M.P. for Wendover.

³⁰ Lord Frederick Campbell, M.P. for Glasgow burghs.

³¹ Colonel Isaac Barré, M.P. for Chipping Wycombe.

1717. 'Bill to take away their Charters: and if you may not tax you may not take away Charters and Dominion: that tho' the Law wd be cruel and unjust it wd be submitted to: if you stamp the Resn. they will dispute all Acts they have disputed most. The Act of Navign was not enforced in Mass. Bay till 17 yrs after it was pass'd and they pass'd Act of Assembly because not represented. In 1748 Pet. on Paper Currency bec. they have an assembly of their own. In 1764 an Opposn. to 4th King on the same principle. If you repeal the Act you will do it more safely after declaring the right: not on their Resistance but in considn of the Represn. of your Merchts. If you maintain it this Resn. is to your purpose.

Mr. Grenville.² I must lament that the executive power of Govt is entrusted to one who apologizes for Rebellion. The Cutters were established in 1763. The next year was the greatest that ever was and this was the Grievance. The Virginia Pamphlet States the Act of Navn as a Tax. The Americans believed St. Act wd be repealed: have they been deceived? Every Country wd do the same. Is it difficult for Ministers to get Petns agst Taxes. I opposed the Tax upon Beer, could not I first Comr of Treasry have got Petns from all the Mughouses in London and gained Popularity, but my Dissent was precluded by the Wisdom of Parlt. As to what he said of using force, has he not order'd all the Govrs. to send to Genl. Gage for a military force. We must account for it by knowing that Genl. Gage had none to send. So resolve not to give up the right but for fear this shd. do no good in America he thinks the Act contrary to Equity. No Cutters sent to W. Indies, no orders given to interrupt the Spanish Trade. No power in the original Charters to call assemblies. The learned Gentleman did not quote any proof that the Right of raising internal taxes exclusively was ever recognized. The Right to tax has been recognized and the same right has been recognized in the City of London. 8 W. 3. forfeits Charters if the due means be not taken to punish Piracies. The printed Case for Mass. Bay in 1715 desires to be put on the foot of all other in England, and desires that their Charters may not be taken away unless they have been guilty.

I do not know that any Requisitions to raise Money: certainly not by Parlt then by a Secretary of State, does he consider that all Loans and Benevolences except by Consent of Parlt is illegal. That Doctrine of Requisn may one day put the King out of the power of Parlt. One Gentleman has compared this to a poetical fiction and a Question of Theory: We have then sat too long. If you have no right the Repeal is a necessary Consequence and I had rather agree in this than meanly attempt to deceive Mankind into a Belief that we mean to establish a Right we avow we do not mean to exercise. The Rebellion of 1715 was bec. an Act ed not overule the divine inefeasible Right of Kings. At no time were so great commercial taxes given to the Colonies as in the two years of these taxes. I wish the Law were more wrong than it is that Eng. might give way to Justice and Reason not to force and Resistance.

Mr. Pitt. If Liberty be not countenanced in America it will sicken, fade and die in this Country. I rise to second the Amendment. It is

² 1715.

³ Peter A. Breen, *Debate on the New England Charters* (London, 1721).

⁴ George Grenville, M.P. for Buckingham.

absurd to vote the Right in order not to exercise it. If they have a Right they have it on all Grounds, on Compact amongst them: there is not a Man readier than I am to punish the Violence but redress the Grievances. It imports the Dignity of this Country to see some of the Offenders brought to Punishment. I think them deprived of a Right: but by an authority they ought not to question. The first Settlers carried with them every Right consistent with their Situation and the Parlt has not a right to lay internal taxations. Repn. and Taxation go together and always have in this Country. Counties Palatine did tax themselves and Writs of Requisition were sent to them from the Crown. In the Patent for erecting Lancaster it is reserved. An Act of R. 2 affirms the Exception in favour of the Counties palatine tho it includes the Cinque Ports. Not look into foundations! What wd this doctrine have concluded when prer. was thought fundamental. Machievel says look often into your Principles: What else produced the Reformation? What revived Liberty in this Country? In the time of E. 2. the Clergy taxed themselves tho' the great Clergy sat in the Legislature. The Convention who laid the Taxes were not the Legislature. In the Conference 1671 the Commons say the Clergy have a right to tax themselves. The upper house never alter the Acts of the lower nor does Parlt ever alter them. It proves that Legislature and Taxation were seperable. To impose the Tax belongs to the Legislature but this house only grants the Money. That is the ground-work on which the Legislature proceeds. Your first Act is to vote that a Supply be granted and till that is done the whole Legislature stagnates. The Speaker presents it as a Grant of the Commons. America was of mean Beginnings so was Rome but the scanty fountain is now become a large Stream covered with Sails and floated with Commerce and nothing should prevent my using an Effort beyond my force to avert the Dangers of such an express and full Declaration. I think you have not the Right. I mean to waive it by Silence and the most magnanimous Exertion of Power is often in the Non Exertion of it. I wish this to be an Empire of Freemen: it will be the stronger for it and it will be the more easily governed. Let the Premises and Consequences agree therefore, decline the Right, do not let Lenity be misapplied nor Rigour unexecuted: take not the worst of both. The Colonies are too great an object to be grasped but in the arms of affection.

*Sr. F. Norton.*³⁵ He assumed the Proposition that Taxation and Repres. go together. I thought that Argt had been beat out of the house. There never was a time when that Idea was true. It is not true before the Norman Period: Men were call'd to the Council by virtue of Tenure. No House of Commons till H. 3. In Magna Charta a Petn. to the Crown that Taxes [should] not be levied without the Consent of the whole of the Great Council. They claim'd the Right common to all Legislatures that Taxation and Legislation go together. Magna Charta *gives and grants* and yet it was only declaratory, so that the Give and Grant of the Commons proves too much. The Clergy taxed themselves because the Popes exempted the Clergy from Taxation, I mean the beneficed Taxation [Clergy?]. Their Lands were exempted and not their Goods and that introduced the tenths and fifteenths instead of Subsidies. Exceptions in the Subsidy Acts not only for the Counties Pala-

³⁵ Sir Fletcher Norton, M.P. for Wigan.

time, and the Northern Colonies, like the latter, on George Barthelemy as frontier, and here the latter taxed themselves and thereby answered the same purposes. Lord Coke, Lord Chief Justice, and in Meeting of the twelve Judges, it has been determined that all the Kings Dominions shd be subject to the Laws. I think the Declaration unnecessary but if it must be the more general the better. If you follow the Decl'n by a Repeal it is a Mockery of Parlt. The assembly of Boston is on a better footing, they will enjoy their Declaration, we shall not. I wd receive the American with open arms but I would receive him penitent and if something is not done to support this Law it will be the last you will pass upon North America.

II

The following report of the debate in the House of Lords on the second reading of the Repeal of the Stamp Act is drawn from the Hardwicke Papers in the British Museum, Add. MSS. 35012 (Hardwicke Papers, vol. DLXIV., ff. 76 *et seq.*). Miss Kate Hobblack, B.A. of Dublin University, has greatly assisted the writer in the deciphering of this manuscript and in commenting on it.

Cobbett in *Parliamentary History*, XVI. 481, note, states that these debates have been nowhere preserved. It seems well therefore to deal with this report from the point of view, first of its authenticity, secondly of its value.

1. *Authenticity.* Cobbett printed several of his debates from the Hardwicke Papers,⁶ but had not access to this one. The reason is fairly obvious: this report was taken down by Hardwicke when the House was cleared of all outsiders, and was no doubt carefully locked up afterwards by him. Of its genuineness in the sense of being Hardwicke's own report of the debate there can be no doubt. It is unmistakably in his own handwriting and has all the marks of being a report written during the actual debate. The handwriting is hurried, there are mistakes, abbreviations, some missing and some illegible words. The writing is on both sides of the paper and blotted as though with hasty folding. How far it genuinely represents the views of the speakers is perhaps a fair question. Sometimes there is only a summary, sometimes a few broken and detached sentences, sometimes a fairly full report. On the other hand, we have in another instance a means of finding out if Hardwicke was a good reporter. Hardwicke's report of the speeches at Pitt's last cabinet has been published and may be compared with Newcastle's.⁷

⁶ E.g. the debate of February 10, 1766, in the House of Lords, on the power of the king to make laws and statutes to bind the colonies, and the debate of December 13, 1768, on the Lords on Discontents in America, both printed in Cobbett, *Parliamentary History*, XVI. 460-477, 476-477.

⁷ *English Historical Review*, XVI. 100, 102, 103, 104, 105, 106, 107, extracts published by W. Hunt and by myself.

A comparison shows that, while Newcastle's is the more lengthy, Hardwicke's is the more real and vivid, and that there is no reason to suppose that the latter missed anything vital or essential in the speeches which he abbreviates. On the whole, therefore, it seems probable that the Stamp Act Debate is adequately reported by Hardwicke.

2. *Value.* The real advantage of this report is that the Lords spoke behind closed doors and therefore could express their minds freely. The Chancellor, Lord Northington, openly says, "As the House is cleared and none of the House of Commons here—I will tell your lordships", etc. The Lords shunned conflicts with the House of Commons in this era, and the Chancellor gives an interesting explanation of why they did so. Yet the Lords were, in a real sense, the rulers of England at this juncture, and this debate undoubtedly reveals their true feelings at this momentous crisis of policy. It is of some interest that the speech of Lord Shelburne here given, like his speech on the first reading, was silent on the question of legal right, and emphasized the commercial side of the question. It appears also that he spoke in this case as the direct mouthpiece of Pitt.³⁸ Newcastle's attitude on the Stamp Act question is consistent throughout, and he distinguished himself at least as much by his knowledge of commerce and by his disinterested conduct on this occasion as upon any in his career.³⁹ Lord Camden's argument follows the same lines as in his speech on the Declaratory Bill⁴⁰ but relies less on natural right. Lord Mansfield is much more interesting than in his speech on the first reading, because his words are exceedingly forcible, and betray those real feelings which were so often disguised in his public utterances.⁴¹ No speech is more emphatic on the gravity of the decision to the unity of the empire. The whole tenor of the speeches, and the fact that at least one unusual speaker intervened specially in the debate, show that the Lords at least were thoroughly alarmed by the crisis. It is also remarkable that they divined the real nature of the opposition and resistance created by the Stamp Act. Only two of the speeches deal with the matter from a purely legal standpoint, and in one of these legal speeches Lord Camden says, "the true connection between

³⁸ See Fitzmaurice, *Life of Shelburne*, I, 322-323, 364-377, 384-387. Shelburne's speech on the first reading is in *Parliamentary History*, XVI, 165-166.

³⁹ Newcastle's assertion that the trade of England was declining everywhere except in America is supported by Public Record Office Trade Bundle C. O. 388, 48; for his general attitude, see Winstanley, *Personal and Party Government* (Cambridge, 1910), pp. 244-264.

⁴⁰ *Parl. Hist.*, XVI, 177-181.

⁴¹ Mansfield's speech on the first reading is in *Parl. Hist.*, XVI, 172-177.

the colonies, and Great Britain is commercial", while in the other Lord Mansfield sums up his argument by saying, "The Americans may think they have a right to an open trade and establishment of manufactures. What then would become of us?" A perusal of the summary of the debate in both Houses, given in *Parliamentary History*, XVI, 193-206, shows that while the arguments of the Commons are fairly reproduced, those of the Lords are imperfectly given. In fact the judgment of the Lords in the crisis was more accurate than that of the Commons and, by concerning themselves mainly with the commercial question, they anticipated the view of modern historians.⁴²

H. W. V. TEMPERLEY.

[Extract from Collett's *Parliamentary History*, XVI, 181, for March 11, 1766.]

"The order of the day being read for the second reading of the Bill, intitled, 'An Act to repeal an act made in the last session of parliament, intitled, An Act for granting and applying certain Stamp Duties, and other duties in the British colonies and plantations in America, towards farther defraying the expences of defending, protecting, and securing the same, and for amending such parts of the several acts of parliament relating to the trade and revenues of the said colonies and plantations, as direct the manner of determining and recovering the penalties and forfeitures therein mentioned:'

"Then the said Bill was read a second time, and it being proposed to commit the Bill, the same was objected to, Content 73; Proxies 32. Total 105; Not Contents 61; Proxies 10; Total 71; Majority 34.

"After a long debate thereupon, the question was put, whether the said Bill shall be committed? It was resolved in the affirmative.

"Speakers on the second reading:

Against the Bill.

1. Earl of Coventry.
3. Earl of Sandwich.
5. Earl of Halifax.
9. Lord Botetourt.
10. Earl of Suffolk.
12. Lord Lyttelton.
14. Lord Mansfield.
16. Visc. Townshend.
17. Earl Temple.
18. Duke of Bedford.

For the Bill.

2. D. of Newcastle.
4. Duke of Grafton.
6. D. of Richmond.
7. Earl Poulet.
8. Earl of Pomfret.
11. Lord Chancellor.
13. Earl of Shelburne.
15. Lord Camden.

"The speeches of these noble lords have not been any where preserved"]

⁴² The voting of the Lords on the Repeal 11 March 1766 was 105 to 71. Of the latter 10 were proxies, who were presumably influenced by the king. See Winstanley, p. 177. On the subject of court influence in the Lords see also, F. H. Maurice, *Shelburne*, I, 100.

Monday in a Committee upon the Bill declaring the Right etc.

Preamble read.

Lord Dartmouth. This Bill My Lords is of great and National Importance. It declares a Right to Exist in the Supreme Legislature of Great Britain which has been disputed all over America.

The Tendency of the Bill in the Light I consider it is to restore Tranquillity to America and Great Britain.

In the Observations I mean to make at present I will confine myself to the Preamble which has been just now read but I hope that in both the Preamble and Enacting part Noble Lords will all give their Assistance in making the Bill as perfect as possible as it is a Bill of so great Importance. It has been said by a Noble Lord that the Preamble is founded on a Mistake, that is such part of it as says that Several of the Assemblies have taken on themselves to assert or assume their Sole and Exclusive Right of Taxation which, it is said, is not a Fact warranted by the Papers on Your Lordships Table.

I confess, my Lords, from the Inaccuracy with which the American Resolutions have been penned it is very natural that a Difference of Opinion should arise upon the Import and Meaning of these Resolutions, but yet I can't help saying that my Opinion is that this Preamble, as it at present stands, is well warranted upon the true and genuine Construction of Resolutions of the Assemblies of Virginia and Pennsylvania. These Resolutions assert that they have the Exclusive and sole Right to lay Taxes on the respective Provinces, but it occurs to me that by the Insertion of a few Words all Disputes will cease.

I therefore move after the Words "claim to themselves" that the Words "*or to the General Assemblies of the same*" may be inserted.

Preamble amended by inserting these Words.

Enacting part read . . .

Lord Marchmont. I have reason to hope by the Appearance of the House that Nothing need be said in Support of this which I will call the Enacting part of the Bill.

[The] Noble Lord has said that there is a Mistake in this part of the Bill and supposes it to have been copied from a Precedent which had No Resemblance to this, but I hope to shew Your Lordships from the Journals of both Houses that the cases are the same.

In order to do that, it is necessary to give the History of that Matter.

In the year 1697 7 Jan. a Committee of the House of Lords was appointed to enquire how Appeals were brought from Ireland, on the House of Lords there⁴¹ claiming a Right of Appeal to them. In 1698 Plantation of Ulster with Bishop of Derry. But at this Time Ireland did not only dispute the Jurisdiction of Your Lordships as a Court of Appeal but likewise the Authority of [the] Legislature of this Country to bind that. And therefore as soon as House of Lords had asserted their Jurisdiction the [English] House of Commons on Account of Molyneux's Book and Resolutions of House of Commons in Ireland thought proper to assert the Jurisdiction of the Legislature. And made a Representation to the King which may be found in the Journals. This Address prevented the Irish from going any further, but upon the House of Lords finding that what had been done by them in the Bishop of Derry's case was not sufficient to prevent the House of Lords

⁴¹ *I. e.*, the Irish House of Lords.

in Ireland from assuming the right of Appeal, and in the year 1717 in Mr. Annesley's Case they did it again, the House of Lords then thought proper to go further than in the former Case, and therefore Ordered a Bill to be brought in. History of that Bill as brought in by Judges, altered by Commons and passed by Lords."

The Bill [that was] past on this occasion [was] very like the present.

[The] Noble Lord objected that there is no Enacting Clause. At the time of the Revolution this Objection was taken when our Great Deliverer was declared King of this Realm.

Every Lawyer knows that the word *Declare* is tantamount to *Enact*.

In the Debate on [the] Revolution an Attempt was made to insert the Word *Adjudge* (following in this the Idea of the Civil Law) but it was thought proper to reject this word as tending to avow in Parliament a power of judging and determining in this Arduous Matter.

These were the Mistakes supposed to be in the Bill which willing to give Your Lordships My Idea of

As to the present Bill, does not look at it in any other Light but as a preliminary Measure. has always thought that Administration must go farther and has given his Sentiments on that Head to a Noble Lord in Administration.

Lord Mansfield. When [he] made Observation last Friday declared that He would propose No Amendment.

After paying great Attention to Noble Lord my Doubt still remains.

The Object of the Bill as it at present stands is not [to deal with] *persons denying the Authority of British Legislature*, which thinks ought to be the Object.

Asks *Lord Macclesfield* whether Irish in 1698 in the Bill sent denied [the] Authority of Parliament. *Ans.* 12 Vol. Journals of House of Commons page 331 the whole preceding may be seen the Authority of Parliament was there denied."

As to what Noble Lord says that *Declare* and *Enact* are synonymous, agrees with this Lord, but My Objection is that this Act enacts Votes to be void. Now that I think unnecessary.

Duke of Newcastle reads the Declaratory part of the Act made on Occasion of Ireland's behaving in same Way as America—the Enacting or Declaratory Words in the Irish Act [are the] same as those in the Act at present before Committee. [He] could have wished that this Question had never come before House but it was the fault of Americans who by their Resolutions and their opposition to Law first made the Question.

[He] has heard with great pleasure the Arguments on the Subject of Right thinks the Supreme power must have a Right to bind its Subjects wherever they are by Laws and Statutes.

Lord Temple has often declared his opinion that present Act Nugatory. The Act 7 8, W. 3 much stronger than the present. [He] reads Act and afterwards Preamble.

All the Provinces [that are] Corporations may forfeit their Charters. the Chief Justice of England their Visitation. No Reason for this Act, the Americans will scout so will all the Kingdom but the Privy Council. Your Lordships may for their Sake Enact it if you will.

"See *Parl. Hist.* VII. 63-64.

"*Commons Debates* [Vol. 12] 1701-1702. VII. 371. June 27, 1708.

G[overnor] Fauquier in a Letter received July 1757 sends the Resolutions of Assembly of Virginia. In August following Board of Trade makes a Representation to the King on this Head. On 6th September This Representation referred to the Council together with Resolutions of Massachusetts Bay.

On 8th of October Council report that it was a Matter too high for Privy Council to determine and was worthy the Consideration of Parliament.

When Parliament assembled not till December—and then not to do Business.

The only reason therefore for enacting what is at present desired is to tell the Privy Council what the Law of their Country is, which they ought to have known before.

Duke of Richmond. Do not conceive why we're brought into a long Debate by what is absolutely out of Order.

The Orders of Council have been brought into Debate affectedly in order to lengthen the Debate unnecessarily. Let the Noble Lord move for a Day to take the Orders of Council in this Matter under their Consideration and I'll second him—but let us not waste our time. No proposal made for Amendment—the Bill ought to be read through and the Committee to report it.

Lord Pomfret moves that Governors Judges and Justices of Peace etc. in America before they act may take an Oath acknowledging the Supremacy of Legislature of Great Britain and that a Clause to that purpose may be inserted in the Act.

Question put whether such Clause should be added to the Act.

Lord Sandys thinks the Clause informal—never saw an etc. in an Act of Parliament.

Duke of Newcastle moves that the Petition of Merchants of London trading to North America be read.

Petition read.

Duke of Grafton moves the Bill may be committed.

Lord Coventry. I seldom trouble Your Lordships but in an Affair of such Consequence should think myself unworthy of a Seat in this House could I sit here without giving my Reasons for my Dissenting to the further proceeding in this Bill.

The reasons He has heard for this Bill are all such as Nothing but Imbecillity and Impotence could adopt.

As I can't find any Reason for the Repeal, will give your Lordships what I think a good Reason for not repealing it.

You have come into a Resolution asserting your Right and at the same time you're doing an Act by which you give up that Right.

I speak from Principle. I have not varied my thoughts on this Matter 3 or 4 times during the Dependence of the Bill.

Duke of Newcastle. Have never varied my opinion during the Progress of this Bill and shall upon the present occasion give Your Lordships my Reasons for wishing the Repeal of this Bill.

With Regard to the Commercial Interests of this Country—from [the] best Intelligence I can receive the Trade of this Country is declining in Every other part of the World but America. The Turkey Trade our Rivals the French have taken a great part from us. Our Mediteranean Trade is much lessened. Our Portugal notwithstanding the immense sums We have Expended on their account has been

the [Stamp Act] is [is] a Lay-tax, post at it now in a [sic] [is sorry to see it is]

He will [is] to the London Petition and other Petitions to House of Commons and the General State of the American Trade from which our Nothing else was considered [there] would be sufficient to shew the Impolicy of continuing the Stamp Act in America.

Lord Sandwich he differs so totally with the Noble Duke in what He has said that He chooses to take it up on his Ground.

1st. He thinks that the Real Commercial Interests of this Country will be greatly affected if this Act is repealed.

The present Bill, the most destructive that Ever came into this House, has forced its way through another House by means of that Democratic Interest which this House was constituted to restrain. In this Assembly Men have a Seat by Birth not Election so that No Influence by Electors can be here used.

[It is] Not enough to say you've a Right to lay a Tax, if you don't pay it.

In order to consider the Matter fairly State what the Americans expect from you and what they're willing to give in Return.

The Americans want to get loose from the Act of Navigation. All the Complaints made against the ships stationed on the coasts to prevent illicit Trade tend to this purpose.

The Stamp Act [is] not the Object of their Sedition but to try their ground whether by Resistance they can get themselves loose from other Acts more disagreeable and detrimental to them.

Till now I thought the Peace of Fountainsbleau One of the greatest Acts ever done for this Country. And that the Persons who Negotiated and planned it deserved the highest Honours from their Country. But if this Act passes I shall alter my Opinion of it. If the Increase of Territory is not increased, if the Public Revenue we should give it up again in order to save the Expence of defending it. Does not France when She calls Alsace or any other conquered Province all to her Revenue by laying Duties or Taxes on such Provinces?

But will America come to a Compromise in this Matter? Will She on our giving up the Stamp Act give up the Bounties and other Commercial Advantages they have from this Country?

Before I conclude allow me to declare it is my firm Resolution steadily to oppose this and Every other Mode of Partial and unequal Taxation.

I have fear'd of Another Attempt intended to lay a Tax of this kind.

If [the] Majority should be for passing this Act [I] will enter a public protest.

Debate continued. One Point that all agreed in, that the Stamp Act as it now is [is] improper to stand as a Statute.

If the Dignity of Legislature is to be maintained it is not to be maintained by supporting a Law full of Imperfections and Absurdities.

If the late Ministry had laid before this and the other House the Intelligence they were possessed of I really think this Act such as it is never would have past. If not then It is much more proper now that

Should continue no longer, as the Americans who were then much concerned are now totally concerned on this point.

It is computed that there are now 100,000 Manufacturers out of Employ in Great Britain waiting for the Effect of this Act. What must

be the Consequence of not repealing it? An Increase of Poor Rates. A Diminution of the Revenues of Excise. A Loss of the Great Debt from America to England.

It is said that America is not taxed. I answer they pay Taxes in taking your Manufactures. In different Colonies they have various Taxes for internal purposes which in some of the provinces are very high.

If however America is not sufficiently taxed, there are other Means by which they may be taxed—don't tax them universally. By that means you join them when you should keep them asunder.

Lord Halifax. [The] Noble Duke has not in the Course of his Speech pointed out any Defects of the Stamp Act. [He] knows none except as to the Admiralty Court, which might have been obviated if the present Administration had given proper Attention.

If we repeal this Bill we give up the Dignity of this House and the Commerce of the Kingdom. If we amend it in the parts which want amendment we shall preserve both.

By the Papers on your Table and by Accounts I have seen out Doors it appears that this Act will execute itself if the Administration had Spirit enough to enforce it.

Instead of sending 10000 Men to enforce I've alwayes [believed that] 2 or 3 20 Gun-Ships properly stationed would enforce it.

Another Thing I would propose—to alter the Duty and take it off as far as relates from [to] clearing out or coming in of Ships and leave it to operate in all internal Cases which I doubt not would make it go down.

But the Fact is, as it appears from the Papers on your Lordships Table, that it is not the Stamp Act that is opposed but the Authority of this Legislature.

Blame has been thrown on the late Administration of which I was a Part for not laying the Resolutions of [the] American Assemblies before Parliament.

[He] refers to the Order of Council on that Head which Shews that Several Members of Council thought it improper to lay these Papers before Parliament, among whom I was one.

I am against the passing of this Bill, for the sake of Every one of the Bodies of Men for the sake of whom it is pretended to be ushered in here.

As to the Merchants they may receive a Present immediate Advantage by touching the Money at present due to them, but the Blow which will be given to Commerce will be felt by them and their posterity.

As to the Manufacturers—Let them be Employed at the Expence of the Publick for the Advantage of publick till Things become more settled, which would not be long.

As to the Americans. Take from them the Advantage of the British Legislature, they would in a Short time be totally ruined.

Duke of Richmond. Thinks the Principle of the Bill absurd.

That America should be Taxed. The Ballance of Trade with America is in our favour. [The taxing means] the taking away from them the Money with which She was to pay that Ballance. [It] has been said that Americans were returning to their Duty.

How is that reconcileable with the Letters read this Day which say that they are now sending out Emissaries from Town to Town in order to spread the Discontent?

If it should be thought right to introduce a Metropolitan Police in America, The Declaratory Bill will be the foundation of it.

Three Months before the Meeting of Parliament [he] declared his Opinion, declares so now, that the Opposition to the Executing the Stamp Act was Rebellion. But how is this Rebellion to be quelled by the Authority of Parliament Only?

In this Case the House of Commons who have alone the Power of giving Subsidies have sent up a Bill for repealing the Stamp Act. The Stamp Act cannot at this time be altered or modified. The only Question is whether the Act of Repeal shall pass or not.

My Conduct in that House may not be able but I'm sure it is not [*sic*] Honest. I have No Engagements nor am I linked with any person and have No Prompter but my Conscience, And guided by that Conscience I would not reject this Bill of Repeal for the Value of all the Estates of the Lords who have spoke in this Debate. What is the Consequence of not repealing it? If it cant be carried into Execution It is putting a Law in the King's Hands which he is sworn to Execute but [h]as not power.

Can I my Lords, a Reall Patriot that despise Fame and Profit when it interferes with my Country's Benefit, Vote against a Repeal sent up by the other House of Parliament who have the right of granting the Subsidies?

What will be the Consequence of rejecting this Bill? Is it not holding out an Invitation to other Insurrections besides those which have already happened in America?

As the House is cleared and none of the House of Commons here I will tell your Lordships what I have read in their Votes and heard out of the House. They have come to a Resolution telling all America their Merchants and their Dependants that they are of Opinion the Bill ought to be repealed. Will Your Lordships by disagreeing with them prevent or delay a Supply? what ruinous Consequence may [that] be attended with.

I have always [been] of Opinion that a Bill of Police is absolutely necessary to be introduced into America. I dont know whether I shall live to see that Police introduced.

The Business requires a great deal of trouble. The time for introducing that Policy is when the Three Branches of Legislature and a firm Ministry concur in introducing it.

Lord Littleton [Lyttelton]. Your Lordships have upon the present Occasion your own Constancy and Dignity to maintain.

You have frequently interposed and when the Civium Ardor prava jubentium had brought the State into great Danger.

It is asked whether the Disagreement with the other House of Parliament might not be attended with the worst Consequences. I think it cannot.

It is impossible to argue stronger against this Bill than Your Lordships have already done by your Resolution declaring the Right.

From the time I first heard of the Insurrections in America in Opposition to this Act I had many Apprehensions for the Consequences which might attend them, but never had the least Suspicion that the Legislature meant on Account of that Opposition to give up the Law.

When this great Concession is made We are, tis said, to be firm in

maintaining all the Laws there, particularly those for regulating their Commerce, which yet, Laws it appears from the Proofs on your Table are the Ground of the present Opposition.

There is no surer Symptom of Infirmary in a Government than to give way to Violence and Oppression which would be Effectually quelled by Erection of a proper Spirit.

The Point on which We are debating is no Question of Expediency, it is a Question of Sovereignty till the Americans submit to this Legislature.

The repealing the Law is such an Encouragement to the Plan of Intimidation taken up by the Americans as may make them much more unreasonable in future Demands. Their Insolence will increase by Corrections and where it will stop is not to be known.

By talking big and acting meanly we shall probably draw on us the contempt of all Europe.

Lord H. Darnley [Wycombe, *etc.*, the Earl of Shrewsbury]. The Principles with which I shall at present trouble your Lordships are all commercial.

Trade and Commerce are the Riches of this Kingdom. And in order to make the Provinces contribute to this Commerce in the proper way you are to take Care they take no Manufacture from other Countries, and that they don't introduce Manufactures there.

The North American trade consists of Gentlemen who carry on Trade for their own Benefit or by Factors.

The Balance and Advantage of the Colony Trade arises from the Exportation to the other Countries of Europe.

Lord Mansfield. Things are now brought to so perilous a Situation that you have Nothing left you but come to Measures which are at best doubtful in their Consequences.

Refused a Proxy because He would not trust himself with the Voice of any Lord but his own.

The Mischiefs which will attend rejecting this Bill are obvious certain and immediate. On the other Side the Admitting it to pass may be a Measure which instead of removing the Evil may leave a perpetual one in the Room of it.

To see the Consequences of this Bill being past We've to consider the both Bills together.

It is now settled that there is no Reservation to the Legislative Authority of Great Britain.

The Americans have adopted on this fatal Occasion a New Principle that they are not subject to the Legislative Authority of Great Britain. They have refused the Law, have made Reprisals on the Effects of the English there and tell them either repeal the Bill or you shall lose your Effects.

In this Situation what is the Effect [of] repealing this Act? It is the striking up the total Legislature of this Kingdom.

This is the Side of the Measure which Your Lordships ought to consider.

I had shown you in the Beginning of this Debate, I wish that the Declaratory Bill might be amended in such a Manner as to make the Repeal of the Bill agreeable to me.

It declares that you a Right which they say you have not, you

then declare their Resolutions to be null and void, which without your Declarations are so in Effect as being without foundation.

If a Bill passes which destroys the Land Marks of the Constitution it is without Remedy.

This was the Case when King Charles made the Parliament perpetual. It was the Case when the Parliament gave King James his Revenue for life. He then took the Dispensing Power of himself and could not be obliged to give it up.

May not the passing this Bill put us in a Situation of being dictated to by the Americans, who may think they have a Right to an Open Trade and Establishment of Manufactures. What then will become of us?

I have now satisfied my own Conscience and if the Measure is carried I shall give Every Assistance to it in my power.

Lord Camden [Camden]. Some Things which have dropt from the Noble Lord who spoke last make it necessary for me to rise in order to bring Your Lordships to what has been conceived to be the Point in Debate till the Noble Lord took up a New Ground—that the Colonies had disclaimed the Legislative Authority of Great Britain and that it was a Conflict between Great Britain and America which should be the Superior. If that was the reall Question I should and so would Every Lord concur with the Noble Lord in his Sentiments on this Matter.

If therefore it should be proved that the Americans meant only to oppose the Law at present under Consideration, I should   his Lordship would alter his Opinion.

The true Cause of the Discontent of the Americans has arose from the Rigour and Hardship of the Stamp Act. It stands upon a principle, that it is politic to call upon the Plantations to pay a perpetual Revenue and Tax in Aid of the Mother Country.

Now the true Connection between the Colonies and Great Britain is commercial.

The Statute of King Charles is introduced with a Recital which [is] very opposite to this Idea—reads Preamble.

This Preamble exactly points out the true State of Great Britain with respect to her Colonies.

If when the present Act was under Contemplation the Americans had thought it proper to apply for a Liberty to tax themselves you would have given it them.

Polybius's Description of the Arcadians being ill-taught Musick etc.* Liberty has had the same Effects on the Americans. From this They have grown up to the Height they are and will still proceed to grow unless checkt in the growth.

From the 15 Car. 2 down to this Day there never was a Murmur against the Legislative Authority of Great Britain. What is it has changed their minds? No other Cause than the Grievances heapt upon them by the late Revenue Acts.

The Projector must have seen that Difficulties must attend the Experiment, but this was rather an Incentive than a Discouragement, and a Double Plan of Policy was to take place; 1st, to strip them of their purses, and then to tame their Spirits.

Mentions the Several Revenue Acts—and the Stamp Act which takes

* Polybius, *Hist.* IV. 20.

away trial by Jury, & I shall be in its place, the Flag of the Admiralty & Court where Writers are examined in private and their Judges and Officers paid out of the Condemnation Money. [It is] Very improper to think that the Evidence of the Governors, Captain Officers and Officers in the Army a sufficient proof of Every Thing they have thought proper to assert.

It is the Stamp Act and that only, whatever those people say, that has been the Ground of the present Confusion in America: take away that and you restore it to peace and Tranquillity, but force them to Desperation and I will not answer for the Consequences. But if after repealing this Law they should still continue Refractory Force must be used.

Lord Townshend. [I] rise up on Account of a Fact which the Noble Lord mentioned, in hopes that it will induce the Noble Lord to be of some Opinion with myself. [He] reads Extracts out of the Resolutions of Massachusetts Bay after the passing the Act relating to Molasses, where they dispute the power of the Parliaments having Right to bind them by Laws without their Consent.

The Noble Lord [Camden] has given us an Arcadian Description. He has given us nothing but Arcadian Descriptions of America during the Course of this debate.

Lord Temple. [I] shall begin with speaking on the subject of the Stamp Act, the Principle of which has been submitted to for near a Century. As to the particular Parts which may be Exceptionable it is not now under Consideration."

¹⁷ Cf. *Notes* (see above), p. 570. I mention that the Duke of Bedford spoke after Temple.

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